



**SHERRI R. CARTER**  
District Court Executive and  
Clerk of Court

September 26, 2007

Phillip Burton United States, Courthouse,  
16th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102-3434

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION**  
312 North Spring Street, Room G-8  
Los Angeles, CA 90012  
Tel: (213) 894-3535

**SOUTHERN DIVISION**  
411 West Fourth Street, Suite 1053  
Santa Ana, CA 92701-4516  
(714) 338-4750

**EASTERN DIVISION**  
3470 Twelfth Street, Room 134  
Riverside, CA 92501  
(951) 328-4450

**FILED**  
OCT 1 2007  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
**CW**  
**07 5084**

Re: Transfer of our Civil Case No. CV07-4732-PSG(MLG)  
Case Title: Kenneth Donald McCurdy-v-Ben Curry, Warden

Dear Sir/Madam:

An order having been made transferring the above-numbered case to your district, we are transmitting herewith our entire original file in the action, together with certified copies of the order and the docket. Please acknowledge receipt of same and indicate below the case number you have assigned to this matter on the enclosed copy of this letter and return it to our office. Thank you for your cooperation.

Very truly yours,

Clerk, U.S. District Court

By *Thorne Chaver*  
Deputy Clerk

cc: All counsel of record

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**TO BE COMPLETED BY RECEIVING DISTRICT**

Receipt is acknowledged of the documents described herein and we have assigned this matter case number CV: \_\_\_\_\_.

Clerk, U.S. District Court

By \_\_\_\_\_  
Deputy Clerk

194, CLOSED

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
(Western Division - Los Angeles)  
CIVIL DOCKET FOR CASE #: 2:07-cv-04732-PSG-MLG**

Kenneth Donald McCurdy v. Ben Curry et al  
Assigned to: Judge Philip S. Gutierrez  
Referred to: Magistrate Judge Marc L. Goldman  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 07/20/2007  
Date Terminated: 07/27/2007  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus (General)  
Jurisdiction: Federal Question

**Petitioner**

**Kenneth Donald McCurdy**

represented by **Kenneth Donald McCurdy**  
CDC C-76230  
California Training Facility  
P O Box 689  
Soledad, CA 93960-0689  
PRO SE

V.

**Respondent**

**Ben Curry**  
*Warden (A)*

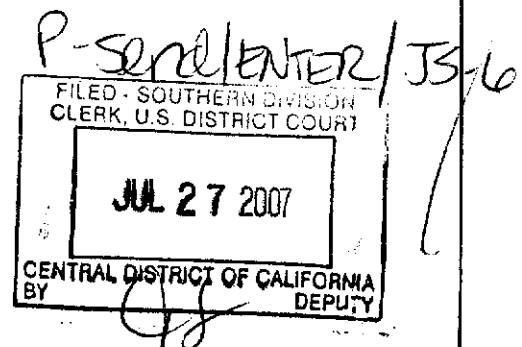
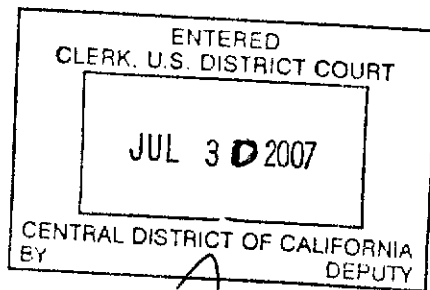
**Respondent**

**Jim Tilman**  
*Secretary CDCR Board of Parole  
Hearings*

Date Filed	#	Docket Text
07/20/2007	1	PETITION for Writ of Habeas Corpus by a Person In State Custody (28:2254). Case assigned to Judge Philip S. Gutierrez and referred to Magistrate Judge Marc L. Goldman. (Filing fee \$ 5. DUE.), filed by Petitioner Kenneth Donald McCurdy. (et) (Entered: 07/27/2007)
07/20/2007	2	NOTICE OF REFERENCE TO A U.S. MAGISTRATE JUDGE. Pursuant to the provisions of the Local Rules, the within action has been assigned to the calendar of Judge Philip S. Gutierrez and referred to Magistrate Judge Marc L. Goldman to consider preliminary matters and conduct all further matters as appropriate. The Court must be notified within 15 days of any change of address. (et) (Entered: 07/27/2007)
07/27/2007	3	ORDER by Judge Marc L. Goldman transferring case to Northern

		District of California. Original file, certified copy of the transfer order and docket sheet sent. (MD JS-6. Case Terminated.)(dmjr) (Entered: 07/30/2007)
09/26/2007		TRANSMITTAL of documents all orig except letter of transfer, (yc) (Entered: 09/26/2007)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
10/02/2007 14:11:47			
<b>PACER Login:</b>	us4077	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	2:07-cv-04732-PSG-MLG
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.08



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

KENNETH DONALD MCCURDY,

Petitioner,

v.

BEN CURRY, Warden,

Respondent.

Case No. CV 07-4732-PSG (MLG)

ORDER TRANSFERRING PETITION FOR  
WRIT OF HABEAS CORPUS

Petitioner, a state prisoner currently confined at the California Training Facility ("CTF") in Soledad, California, filed this petition for writ of habeas corpus by a person in state custody on July 20, 2007. In September 1983, Petitioner was convicted of second degree murder, Cal. Penal Code § 187, and sentenced to a term of fifteen years to life imprisonment in the Kern County Superior Court, which is located in the Eastern District of California. The current petition does not challenge the legality of Petitioner's conviction or sentence. Rather, it challenges the denial of parole suitability by the California Board Parole Hearings. (Petition, pp. 2 and 2-A.)

THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77(d).

3

1 Where a petition for writ of habeas corpus is filed by a person  
2 in custody under the judgment and sentence of a State court of a  
3 State, such as California, which contains two or more Federal  
4 judicial districts, it may be filed in either the judicial district  
5 in which the petitioner is presently confined or the judicial  
6 district in which he was convicted and sentenced. See 28 U.S.C. §  
7 2241(d).

8 When a habeas petition is directed to the petitioner's  
9 underlying conviction or sentence, the district court for the  
10 district in which the petitioner was convicted and sentenced is a  
11 more convenient forum because of the accessibility of evidence,  
12 records and witnesses. Thus, it generally is the practice of the  
13 district courts in California to transfer habeas actions questioning  
14 state convictions/sentences to the district in which the petitioner  
15 was convicted and sentenced. See Laue v. Nelson, 279 F. Supp. 265,  
16 266 (N.D. Cal. 1968).

17 However, when as here, "the petition is directed to the manner  
18 in which a sentence is being executed, e.g., if it involves parole  
19 or time credits claims, the district of confinement is the preferable  
20 forum." Russo v. Newland, 2000 WL 194812, \*1 (N.D. Cal.); accord,  
21 In re Phelon, 2002 WL 31618536, \*1 (N.D. Cal.); Thomas v. Hepburn,  
22 2001 WL 505916, \*1 (N.D. Cal.); McKnight v. Forman, 1997 WL 50267,  
23 \*1 (N.D. Cal.); see also Dunne v. Henman, 875 F.2d 244, 249 (9th Cir.  
24 1989) ("The proper forum to challenge the execution of a sentence is  
25 the district where the prisoner is confined.").

26 CTF is located in Monterey County which is within the  
27 jurisdictional boundaries of the Northern District of California.  
28 See 28 U.S.C. § 84(a). Therefore, pursuant to 28 U.S.C. §§ 1404(a)

1 and 2241(d), and in furtherance of the interest of justice,

2 It is ORDERED that this action be transferred to the United  
3 States District Court for the Northern District of California, and  
4 the Clerk of this Court shall effect such transfer forthwith.

5 IT IS FURTHER ORDERED that the Clerk shall serve a copy of this  
6 Order upon petitioner and upon the California Attorney General.

7 Dated: July 26, 2007



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10 Marc L. Goldman  
11 United States Magistrate Judge  
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